

6/6/2002

Agenda ID #561

Decision **DRAFT DECISION OF ALJ WETZELL** (Mailed 4/23/2002)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 1999.

(U 39 M)

Application 97-12-020  
(Filed December 12, 1997)

Investigation into the Reasonableness of Expenses Related to the Out-Of-Service Status of Pacific Gas and Electric Company's El Dorado Hydroelectric Project and the Need to Reduce Electric Rates Related To This Non-Functioning Electric Generating Facility.

Investigation 97-11-026  
(Filed November 19, 1997)

Application of Pacific Gas and Electric Company for Authority, Among Other Things, to Decrease its Rates and Charges for Electric and Gas Service, and Increase Rates and Charges for Pipeline Expansion Service.

Application 94-12-005  
(Filed December 9, 1994)

Order Instituting Investigation Into Rates, Charges, and Practices of Pacific Gas and Electric Company.

Investigation 95-02-015  
(Filed February 22, 1995)

**OPINION ON PETITION FOR MODIFICATION OF DECISION 01-10-059**

## **1. Summary**

Pacific Gas and Electric Company (PG&E) has filed a petition for modification of Decision (D.) 01-10-059 requesting, among other things, that the Commission vacate the requirement that it tender a Notice of Intent (NOI) for a Test Year (TY) 2003 general rate case (GRC) on or before November 14, 2001. This decision finds that with the issuance of D.02-04-018, most issues raised in the petition are moot. However, Ordering Paragraph 4 of D.01-10-059 adopted a goal of having new rates in place by January 1, 2003. In view of the five-month delay to PG&E's GRC that has occurred since D.01-10-059 was issued, the decision is modified accordingly.

## **2. Background**

D.00-02-046 resolved most issues in PG&E's TY 1999 GRC. Among other things it ordered PG&E to file a TY 2002 GRC in accordance with the Rate Case Plan. D.00-07-050 modified D.00-02-046 by allowing PG&E to file the TY 2002 GRC on a schedule delayed by nine months.

By D.01-10-059 dated October 25, 2001, the Commission resolved a petition by PG&E to modify D.00-07-050. Among other things, the Commission ordered PG&E to file for a TY 2003 GRC and to tender its NOI for that GRC no later than 20 days from the effective date of the decision, i.e., on November 14, 2001.

On November 16, 2001, PG&E filed a petition to modify D.01-10-059. In it, PG&E asserts that it is impossible to prepare and tender the NOI in 20 days and requests that the Commission vacate the requirement that it do so. PG&E instead requests that the Commission direct its Energy Division to convene a workshop that would allow PG&E and all interested parties to offer their views concerning the appropriate test year for PG&E's next GRC, PG&E's need for attrition in the years 2002 and beyond, and a rational schedule that will enable the Commission to fulfill its regulatory oversight obligations in a reasonable and

fair fashion. The Energy Division would then issue a workshop report, and parties would be allowed to file comments thereon.

No responses to PG&E's petition have been filed.

### **3. Discussion**

After PG&E filed this petition, the Commission initiated an investigation (Investigation (I.) 01-12-010) and related order to show cause to consider whether PG&E and its officers and employees failed to comply with D.01-10-059, whether they should be held in contempt, and whether they should be subject to penalties provided in the Public Utilities Code. PG&E proposed to resolve all the issues raised in that proceeding by, among other things, agreeing to tender an NOI for a TY 2003 GRC on or before April 15, 2002.<sup>1</sup> We approved PG&E's proposal in I.01-12-010 by D.02-04-018 dated April 4, 2002. We note that parties in this proceeding were provided with notice and opportunity to be heard on PG&E's proposal to tender an NOI for a TY 2003 GRC on or before April 15, 2002. We further note that no party stated any objection to the proposal.

In its petition, PG&E seeks to have the Commission sponsor a workshop and comment process to consider alternatives to the requirement of D.01-10-059 that the Company tender an NOI for a TY 2003 GRC on or before November 14, 2001. However, our subsequent approval of PG&E's uncontested proposal that it tender the NOI on or before April 15, 2002 in effect supersedes PG&E's request in the instant petition, and renders it moot. Since PG&E has been ordered by the Commission to tender an NOI for a TY 2003 GRC on or before April 15, 2002, and

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<sup>1</sup> PG&E also agreed to pay a penalty of \$500 per day beginning January 9, 2002 and continuing each day until it tenders its NOI. PG&E tendered the NOI to the Commission on April 15, 2002.

no party in this proceeding has stated any objection to that requirement, no reasonable purpose would be served by convening a workshop or providing for comments to further explore this requirement.

PG&E also seeks to have the proposed workshop address its asserted need for attrition for the years 2002 and beyond. Since D.01-10-059 provided for a separate comment process on the need for attrition for 2002, and the question of attrition for future years can and should be addressed in the 2003 GRC, we will not order Energy Division to convene a workshop on this issue.<sup>2</sup>

Finally, PG&E requests that the proposed workshop and comments address the need for a “rational schedule” for the GRC. We understand PG&E’s request to pertain to its determination that it was impossible for it to tender an NOI for a TY 2003 20 days after having been ordered to do so. Again, this issue is resolved by D.02-04-018 and is therefore moot.

However, we find that another aspect of the schedule that we adopted in D.01-10-059 should be modified in order to yield a “rational schedule.” Ordering Paragraph 4 of that decision established a goal of processing the 2003 GRC on an expedited basis so that new rates could be in place by January 1, 2003. We found that in view of the time required to process a GRC, that was the *earliest* feasible opportunity to review the reasonableness of PG&E’s rates. (D.01-10-059, Finding of Fact 2.) Because the deadline for PG&E to tender the NOI for its TY 2003 GRC has been deferred by five months, from November 14, 2001 to April 15, 2002, we

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<sup>2</sup> In response to D.01-10-059, comments on the need for an attrition increase were filed by PG&E and jointly by the Office of Ratepayer Advocates, The Utility Reform Network, and James Weil (collectively, Consumers) on November 9, 2001. Neither PG&E nor Consumers suggested in their respective comments that workshops be held. PG&E requested that it be authorized to file an advice letter to implement a 2002 attrition increase.

find and conclude that the goal for processing the GRC should be modified accordingly.<sup>3</sup>

#### **4. Comments on Draft Decision**

The Administrative Law Judge's draft decision was issued for public review and comment in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure. Comments were filed on \_\_\_\_\_ and reply comments were filed on \_\_\_\_\_.

#### **Findings of Fact**

1. Parties in this proceeding were provided with notice and opportunity to be heard on PG&E's proposal, put forth in I.01-12-010, that it tender an NOI for a TY 2003 GRC on or before April 15, 2002. No party stated any objection to this proposal.

2. D.02-04-018 approved PG&E's proposal in I.01-12-010 to resolve that proceeding by, among other things, tendering an NOI for a TY 2003 GRC on or before April 15, 2002. D.02-04-018 ordered PG&E to implement this proposal.

3. With the issuance of D.02-04-018, PG&E's requests in this petition to consider the appropriate test year for its next GRC and the appropriate NOI tender date are moot.

4. The issue of PG&E's need for an attrition increase for 2002 is being addressed separately in response to comments that have been filed pursuant to

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<sup>3</sup> D.01-10-059 provides for a period of approximately 106 days after PG&E tenders its NOI for filing of the GRC application. (D.01-10-059, Ordering Paragraph 2.) Therefore, the GRC application might not be filed until on or about July 30, 2002. It would clearly be unreasonable to suggest that the GRC be litigated and a final Commission decision rendered less than five months later in December 2002.

D.01-10-059, and any need for an attrition allowance for future years can and should be addressed in the 2003 GRC.

5. Because the deadline for the tender of PG&E's NOI for a TY 2003 GRC has been delayed by five months, the goal for completion of that GRC should be modified correspondingly.

### **Conclusions of Law**

1. PG&E's petition for modification of D.01-10-059 should be granted in part by modifying the text, Finding of Fact 2, and Ordering Paragraph 4 of that decision with respect to the goal for completing PG&E's TY 2003 GRC.

2. In all other respects the petition should be dismissed as moot.

## **O R D E R**

### **IT IS ORDERED** that:

1. Pacific Gas and Electric Company's (PG&E) petition for modification of Decision (D.) 01-10-059 is granted to the extent set forth in Ordering Paragraph 2 and in all other respects is dismissed as moot.

2. D.01-10-059 is modified as follows:

a. On page 4, first paragraph, references to "January 1, 2003" are changed to "June 1, 2003."

b. Finding of Fact 2 of D.01-10-059 is amended to read as follows:

Given the time required to process a GRC, the earliest feasible opportunity to review the reasonableness of PG&E's rates would be in a TY 2003 GRC for new rates to be in place by ~~January 1, 2003~~ June 1, 2003.

c. Ordering Paragraph 4 of D.01-10-059 is amended to read as follows:

The assigned administrative law judge is directed to develop an expedited schedule to complete a TY 2003 GRC with the goal of having new rates in place by ~~January 1, 2003~~ June 1, 2003.

3. Except as modified by D.02-04-018 and by this decision, D.01-10-059 remains in full force and effect.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.